

## BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

<b>IN THE MATTER OF THE APPLICATION )          OF ESODUS COMMUNICATIONS, INC. )          DBA INSTATONE FOR A CERTIFICATE OF )          PUBLIC CONVENIENCE AND NECESSITY )          TO PROVIDE LOCAL EXCHANGE )  <u>TELECOMMUNICATIONS SERVICES.</u> )</b>	<b>CASE NO. ESO-T-04-1           ORDER NO. 29586</b>
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On February 26, 2004, Esodus Communications, Inc. dba INSTATONE filed an Application for a Certificate of Public Convenience and Necessity to provide resold local exchange services within the State of Idaho. On July 29, 2004, the Commission issued a Notice of Application and Notice of Modified Procedure requesting comments on the Application. No comments were received other than those submitted by Commission Staff. Based on the comments, the law and the record, the Commission grants Esodus' Application.

### THE APPLICATION

Esodus is incorporated in the State of Florida with its principal offices located in Belleair Beach, Florida. Esodus intends to provide resold local exchange services within the service territories of Qwest Corporation and Verizon. The Company proposes to provide resold local exchange services primarily to residential customers.

According to its Application, Esodus has not initiated interconnection negotiations with Qwest or Verizon. The Company's local calling areas will initially coincide with the individual calling areas of Qwest and Verizon. The Company also stated that it will not require deposits or prepayments. Esodus stated that it has reviewed the laws and regulations governing local exchange telecommunications services in Idaho and certified that it will provide service in accordance with all laws, rules and regulations to the extent they are not preempted by the federal Act.

### STAFF COMMENTS

In its comments, Staff noted that Esodus has obtained a Certificate of Authority to transact business as a foreign corporation from Idaho's Secretary of State. The Company does have a registered in-state agent. Staff has reviewed Esodus' financial data for the period ending December 31, 2003, and believes that the Company is solvent.

The Staff reports that Esodus proposes to provide resold local exchange service (including flat and measured service), operator services, and optional services such as Caller ID and Call Waiting to Qwest and Verizon service areas. Esodus is also providing local exchange service in several other states including Colorado and Kentucky. It has an active long-distance price list on file with this Commission. Esodus has stated that it has reviewed the Commission's telecommunications rules and affirms its commitment to abide by them. Based upon its review, the Staff recommended that the Commission approve Esodus' Application to provide resold local exchange service in Idaho.

### **COMMISSION FINDINGS**


Based on the Commission's review of the record and Staff's comments, the Commission finds that Esodus' Application complies with the Commission's Rules and Procedural Order No. 26665 necessary to obtain a Certificate of Public Convenience and Necessity. Therefore, we approve Esodus' Application for a Certificate to provide local exchange service within the State of Idaho.

### **ORDER**

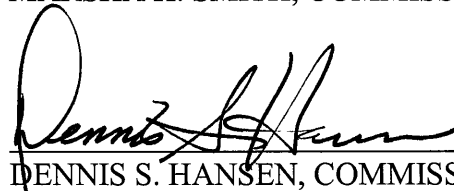
IT IS HEREBY ORDERED that Esodus Communications dba INSTATONE is granted a Certificate of Public Convenience and Necessity to provide local telecommunications service within the State of Idaho subject to the provisions of Section 251(f) of the federal Telecommunications Act.

THIS IS A FINAL ORDER. Any person interested in this Order (or in issues finally decided by this Order) or in interlocutory Orders previously issued in this Case No. ESO-T-04-1 may petition for reconsideration within twenty-one (21) days of the service date of this Order with regard to any matter decided in this Order or in interlocutory Orders previously issued in this Case No. ESO-T-04-1. Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration. See *Idaho Code* §§ 61-626 and 62-619.

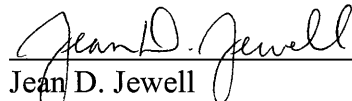
DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 7<sup>th</sup>  
day of September 2004.

  
PAUL KJELLANDER, PRESIDENT

  
MARSHA H. SMITH, COMMISSIONER

  
DENNIS S. HANSEN, COMMISSIONER

ATTEST:

  
Jean D. Jewell  
Commission Secretary

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